

09/835,518  
DOCKET NO. WN-2323

14

### REMARKS

Claims 1-33 are all the claims presently pending in the application. Claims 1, 8, and 26 are amended to more clearly define the invention. Claims 1, 8, 11, 16, and 19 are independent.

These amendments are made only to more particularly point out the invention for the Examiner and not for narrowing the scope of the claims or for any reason related to a statutory requirement for patentability.

Applicant also notes that, notwithstanding any claim amendments herein or later during prosecution, Applicant's intent is to encompass equivalents of all claim elements.

Entry of this §1.116 Amendment is proper. Since the Amendments above narrow the issues for appeal and since such features and their distinctions over the prior art of record were discussed earlier, such amendments do not raise a new issue requiring a further search and/or consideration by the Examiner. As such, entry of this Amendment is believed proper and Applicant earnestly solicits entry. No new matter has been added.

Applicant gratefully acknowledges the Examiner's indication that claims 11-25, and 27-29 are allowed. However, Applicant respectfully submits that all of the claims are allowable.

Claims 1-10 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Barker reference in view of the Yamane et al. reference. Claims 30-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Barker reference in view of the Yamane et al. reference and further in view of the Miller et al. reference.

These rejections are respectfully traversed in the following discussion.

09/835,518  
DOCKET NO. WN-2323

15

## I. THE INFORMATION DISCLOSURE STATEMENT

The Examiner continues to fail to indicate consideration of the foreign language references which were submitted in an Information Disclosure Statement that was filed on June 9, 2003. The Applicant has repeatedly requested that the Examiner indicate consideration of these references, yet the Examiner continues to ignore these requests and further fails to provide any reason as to why the Examiner has failed to indicated consideration of the foreign language referencess

In particular, the Examiner fails to indicate consideration of foreign language references Japan 48-11904 dated 2/15/1973, Japan 4-502990 dated 5/28/1992, and Japan 5-501942.

In the absence of the Examiner's explanation for his in-action, Applicant can only assume that the Examiner is under the mistaken understanding that the Examiner does not have to indicate consideration of foreign language references.

Applicant respectfully directs the Examiner's attention to 37 C.F.R. § 1.98(3) which merely requires a concise explanation of the relevance of each publication that is not in the English language. Specifically, M.P.E.P. § 609A(3) states:

"Where the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevancy can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office." (Emphasis added).

The Information Disclosure Statement that was filed on June 9, 2003 clearly pointed

09/835,518  
DOCKET NO. WN-2323

16

out that the information listed was cited in an action by a foreign patent office in a counterpart foreign application and included an English-language version of the action, which provides a concise explanation of the relevance as found by the foreign office.

Therefore, Applicant respectfully requests that the Examiner indicate consideration of all references that were submitted in the Information Disclosure Statement that was filed on June 9, 2003.

Alternatively, should Examiner Trinh continue to refuse to comply with the clear requirements that are specifically set forth and which are mandatory duty of the Examiner, Applicant respectfully requests that the Examiner contact the Applicant's undersigned representative immediately at the telephone listed below to explain the Examiner's persistent failure to act.

## **II. THE CLAIMED INVENTION**

A first exemplary embodiment of the claimed invention, as defined by independent claim 1, is directed to a data distribution satellite communication system that includes a communication satellite, and a plurality of satellite communication terminals for a plurality of users. The plurality of satellite communication terminals are each enabled to receive a signal from the communication satellite. The data distribution satellite communication system provides, from the communication satellite to the plurality of satellite communication terminals, distribution business for a data signal in a broadcasting fashion. The system further includes a satellite earth station for carrying out a principal communication via the communication satellite, a data distribution center, connected to the satellite earth station, for distributing the data signal to the communication satellite, and return communicating means

09/835,518

17

DOCKET NO. WN-2323

for enabling the data distributing center to receive a data request signal from at least one of the plurality of users using at least one of the plurality of satellite communication terminals. The data request signal includes a code indicative of an emergency level of data distribution that indicates a time interval.

A second exemplary embodiment of the claimed invention, as defined by independent claim 8, is directed to a satellite communication educational institution that includes a communication satellite, a plurality of satellite communication terminals for a plurality of users each terminal enabled to receive a signal from the communication satellite, a satellite earth station for carrying out a principal communication via the communication satellite, and a data distribution center connected to the satellite earth station by a communication channel. The data distribution center includes an electronic library for storing collected information in an electronic form. The electronic library presenting stored contents to users of the satellite communication terminals to submit retrieval of the users. The electronic library supplying information requested in accordance with a data request signal from the users. The data request signal includes a code indicative of an emergency level of data distribution that indicates a time interval.

Some conventional data distribution systems distribute data instantly in response to a request from a user. However, these systems have problems that are related to right restrictions placed upon available quantities of data, the high cost of transmitting a large amount of data and the difficulty of providing such a high amount of data interactively.

In stark contrast to these conventional data distribution systems, the present invention provides a data request signal from the satellite communication terminal from the user that includes a code indicative of an emergency level of data distribution that indicates a time

09/835,518  
DOCKET NO. WN-2323

18

interval. In this manner, the present invention provides the ability to transmit the data to the user at a time that corresponds to the emergency level in the request which is less costly and makes better use of available bandwidth. The present invention further takes advantage of the fact that a plurality of users may be grouped together to simultaneously receive the same data.

### III. THE PRIOR ART REJECTIONS

#### A. The Barker reference in view of the Yamane et al. reference

Regarding the rejection of claims 1-10 and 26, the Examiner alleges that the Yamane et al. reference would have been combined with the Barker et al. reference to form the claimed invention. Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

None of the applied references teaches or suggests the features of the present invention including a data request signal from a user (through, for example, a satellite communication terminal) that designates an emergency level of data distribution. This feature is important for providing the ability to transmit the data to the user at a time, which is less costly and makes use of available bandwidth better and which takes advantage of the fact that a plurality of users may be grouped together to simultaneously receive the same data.

As explained previously, and as agreed by Examiner Trinh, the Barker et al. reference does not teach or suggest the features of the present invention including a data request signal from a user (through, for example, a satellite communication terminal) that designates an emergency level of data distribution.

The Barker et al. reference does not teach or suggest a data request signal from a user

09/835,518  
DOCKET NO. WN-2323

19

that designates an allowable waiting time interval. The Examiner cites page 3, paragraph [0043] in an attempt to support the Examiner's allegation that the data request signal from a user designates an allowable waiting time interval. However, contrary to the Examiner's allegation, page 3, paragraph [0043] explains that an "ad-hoc scheduling" allows a client (i.e. content provider) "to send content to the network operations center 13 and know that it will be broadcast within any suitably agreed to amount of time."

This is also explained at page 2, paragraphs [0026] and [0027] in the Barker et al. reference. "The software module 31 of the publishing element 25 is configured to allow the content provider to schedule content feeds and ad-hoc feeds (i.e. emergency or unplanned broadcasts)." (Emphasis added). "Content may be submitted in real-time or ahead of time which allows the content to be stored on the network operations center 13 and forwarded to client personal computers 16 at the designated time."

Therefore, the time interval that designates a waiting time interval for distributing data that is disclosed by the Barker et al. reference is based upon a broadcast request from a content provider, not a user.

Although, the Barker et al. reference appears to disclose the ability to subscribe to data/content broadcasts, the Barker et al. reference does not teach or suggest a data request signal from a user that designates an allowable waiting time interval.

Rather, the Barker et al. reference explains that the content provider 12 may forward content for storage at the network operations center along with instructions that designate when the content is to be broadcast by the network operations center. This schedule is then published by the network operations center. Specifically, the Barker et al. reference explains that the network operations center includes "a content distribution engine 33 generates

09/835,518  
DOCKET NO. WN-2323

20

program schedules and relays the information to the data broadcast system 34 which broadcasts announcements of schedule.” [0029].

The Barker et al. reference then explains that each client computer 16 includes a client software module 41 that receives the announcements of the program schedules from the data broadcast system. [0032]. The client software module 41 uses these program schedules for use in subscribing to receive the content.

Therefore, the Barker et al. reference clearly explains that it is the content provider 11 that determines when the content is to be broadcast and within which “window” of time (i.e. waiting time interval) and not the user. Rather, the Barker et al. reference clearly explains that the user is only capable of “scheduling” the receipt of the broadcast content based upon the broadcast time designated by the content provider 11.

Thus, the Barker et al. reference does not teach or suggest the features of the present invention including a data request signal from a user (through, for example, a satellite communication terminal) that designates an emergency level of data distribution.

The Yamane et al. reference clearly does not remedy the deficiencies of the Barker et al. reference.

Indeed, the Examiner does not allege that the Yamane et al. reference teaches or suggests these features.

Further, Applicant continues to submit that one of ordinary skill in the art would not have been motivated to combine the applied references because these references are directed to completely different matters and problems.

Specifically, the Barker et al. reference is directed to providing a data distribution system and method that uses Internet Protocol (IP) services to distribute data to personal

09/835,518  
DOCKET NO. WN-2323

21

computers and to a data distribution system that packages data along with instructions for broadcasting and processing by a remote computer that receives the package [0004].

In stark contrast, the Yamane et al. reference is specifically directed to the problems of incorporating unnecessary information into the memory of a pager, and avoiding an increase in communication traffic that results from multiple users submitting data requests. (Col. 1, lines 23-33).

One of ordinary skill in the art who was concerned with providing a data distribution system that uses IP services to distribute data or that packages data along with broadcasting and processing instructions as the Barker et al. reference is concerned with addressing would not have referred to the Yamane et al. reference because the Yamane et al. reference is directed to the completely different and unrelated problems of incorporating unnecessary information into the memory of a pager and avoiding increased communication traffic that results from multiple users submitting data requests. Therefore, one of ordinary skill in the art would not have been motivated to combine the applied references.

The Examiner is respectfully requested to withdraw the rejection of claims 1-10 and 26.



09/835,518  
DOCKET NO. WN-2323

22

**B. The Barker reference in view of the Yamane et al. reference and further  
in view of the Miller et al. reference**

Regarding the rejection of claims 30-33, the Examiner alleges that the Yamane et al. reference would have been combined with the Barker et al. reference and further alleges that the Miller et al. reference would have been combined with the Yamane et al. reference and the Barker et al. reference to form the claimed invention. Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

None of the applied references teaches or suggests the features of the present invention including a data request signal from a user (through, for example, a satellite communication terminal) that designates an emergency level of data distribution. This feature is important for providing the ability to transmit the data to the user at a time, which is less costly and makes use of available bandwidth better and which takes advantage of the fact that a plurality of users may be grouped together to simultaneously receive the same data.

As explained previously, neither the Barker et al. reference nor the Yamane et al. reference teaches or suggests the features of the present invention including a data request signal from a user (through, for example, a satellite communication terminal) that designates an emergency level of data distribution.

The Miller et al. reference clearly does not remedy the deficiencies of the Barker et al. reference.

Rather, the Miller et al. reference discloses a request "from one or more content sources requesting data transmission to one or more replicated servers" to a network resource scheduler. (Column 1, lines 57 - 60, column 6, lines 9-20). In other words, the Miller et al.

09/835,518  
DOCKET NO. WN-2323

23

references discloses a network resource scheduler 10, receiving a request from a content source 12 or 14. The Miller et al. reference does not teach or suggest the features of the present invention including a data request signal from a user (through, for example, a satellite communication terminal) that designates an emergency level of data distribution.

Indeed, the Examiner does not allege that the Miller et al. reference teaches or suggests these features.

Further, Applicant continues to submit that one of ordinary skill in the art would not have been motivated to combine the applied references because these references are directed to completely different matters and problems.

As explained above, the Barker et al. reference is directed to providing a data distribution system and method that uses Internet Protocol (IP) services to distribute data to personal computers and to a data distribution system that packages data along with instructions for broadcasting and processing by a remote computer that receives the package [0004] and the Yamane et al. reference is specifically directed to the problems of incorporating unnecessary information into the memory of a pager, and avoiding an increase in communication traffic that results from multiple users submitting data requests. (Col. 1, lines 23-33).

In stark contrast to the Barker et al. reference and the Yamane et al. reference, the Miller et al. reference is concerned with the completely different and unrelated problem of coordinating the distribution of content such that the distribution does not overwhelm network bandwidth (col. 1, lines 43 - 48).

One of ordinary skill in the art who was concerned with providing a data distribution system that uses IP services to distribute data or that packages data along with broadcasting

09/835,518  
DOCKET NO. WN-2323

24

and processing instructions as the Barker et al. reference is concerned with addressing or who was concerned with the problems of incorporating unnecessary information into the memory of a pager and avoiding increased communication traffic that results from multiple users submitting data requests as the Yamane et al. reference is concerned with would not have referred to the Miller et al. reference because the Miller et al. reference is directed to the completely different and unrelated problem of coordinating the distribution of content such that the distribution does not overwhelm network bandwidth. Therefore, one of ordinary skill in the art would not have been motivated to combine the applied references.

The Examiner is respectfully requested to withdraw the rejection of claims 30-33.

#### IV. FORMAL MATTERS AND CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that claims 1-33, all the claims presently pending in the Application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the Application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

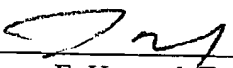
09/835,518  
DOCKET NO. WN-2323

25

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date: 10/5/05

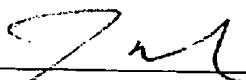
  
James E. Howard, Esq.  
Registration No. 39,715

**MCGINN INTELLECTUAL PROPERTY  
LAW GROUP, PLLC**

8321 Old Courthouse Road, Suite 200  
Vienna, Virginia 22182-3817  
(703) 761-4100  
Customer No. 21254

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that I am filing this Amendment After-Final Rejection Under 37 CFR §1.116 by facsimile with the United States Patent and Trademark Office to Examiner Tan H. Trinh, Group Art Unit 2684 at fax number (571) 273-8300 this 5<sup>th</sup> day of October, 2005.

  
James E. Howard, Esq.  
Registration No. 39,715